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301 NLRB No. 154

D--1825
Southfield, MI

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

ASBESTOS REMOVAL, INC.

and

DANIEL J. STANLEY, an Individual
DANIEL E. JEWELL, an Individual

Case ⁵ 7--CA--28013 and
7--CA--28162

SUPPLEMENTAL DECISION AND ORDER

By Members Devaney, Oviatt, and Randabough

On March 21, 1989, the National Labor Relations Board issued a Decision and Order ¹ directing the Respondent, inter alia, to make whole certain employees for any losses resulting from the Respondent's unfair labor practices in violation of Section 8(a)(3) and (1) of the Act. The United States Court of Appeals for the Sixth Circuit enforced the Board's Order on November 20, 1989, in an unpublished decision.² A controversy having arisen over the amount of backpay due under the Board's Order, the Regional Director for Region 7 on September 25, 1990, issued a backpay specification and notice of hearing alleging the amounts of backpay due and notifying Respondent that it should file a timely answer. Respondent failed to file an answer.

On October 25, 1990, no answer having been received from Respondent, the Regional attorney sent a letter to Respondent informing it that unless an answer to the specification was received by November 8, 1990, a Motion for Default Judgment would be filed. Respondent did not file an answer to the backpay specification within the required time.

¹ 293 NLRB No. 32.

² 892 F.2d 79 (1989).

On November 20, 1990, the General Counsel filed a Motion for Default Summary Judgment. On November 21, 1990, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the General Counsel's motion should not be granted. Respondent did not file a response to the Notice to Show Cause.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

On the entire record, the Board makes the following

Ruling on the Motion for Default Summary Judgment

Section 102.56 of the Board's Rules and Regulations provides, in pertinent part, that:

(a) Each respondent alleged in the specification to have compliance obligations shall, within 21 days from the service of the specification, file an original and four copies of an answer thereto with the Regional Director issuing the specification. . . .

(c) If the respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate.

Further, the undisputed allegations in the Motion for Default Summary Judgment disclose that the Respondent, by letter of October 25, 1990, was given an extension of time until November 8, 1990, to file an answer, and was notified that its failure to do so would be the basis for the initiation of default judgment proceedings against it. As the Respondent failed to file an answer to the specification or a response to the Notice to Show Cause, we find that the allegations of the backpay specification are admitted as true.

In the absence of any explanation for Respondent's failure to file a timely answer, we grant the General Counsel's Motion for Default Summary Judgment.

Accordingly, the Board concludes that the net backpay due the discriminatees is as stated in the computations of the backpay specification, and orders the Respondent to pay those amounts to the discriminatees.

ORDER

The National Labor Relations Board orders that the Respondent, Asbestos Removal, Inc., Southfield, Michigan, its officers, agents, successors, and assigns, pay each employee named below the amounts set forth adjacent to their names, with interest computed in the manner prescribed in New Horizons for the Retarded,³ and accrued to the date of payment, minus tax withholdings required by law.

	<u>Net Backpay</u>	<u>Benefits</u>	<u>Total</u>
Vito J. Gillette	\$ 26,790.92	\$ 10,800.21	\$ 37,591.13
Daniel J. Stanley	5,578.77	2,805.12	8,383.89
Daniel E. Jewell	35,502.82	10,800.21	46,303.03
Curtis Elder	35,502.82	10,800.21	46,303.03
Glenn Jewell	11,047.73	10,800.21	21,847.94
	<u>\$114,423.06</u>	<u>\$46,005.96</u>	<u>\$160,429.02</u>

Dated, Washington, D.C. February 28, 1991

Dennis M. Devaney, Member

Clifford R. Oviatt, Jr., Member

John N. Raudabaugh, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD

³ 283 NLRB 1173 (1987).